***THE HON'BLE SRI JUSTICE P.S.NARAYANA**

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+ WRIT PETITION Nos. 12227 of 1997 & 176848 of 1999

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WRIT PETITION No. 12227 of 1997

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%Dated 24.02.2005

Vedantam Srinivasa Chary, S/o.late V.Venkatachary,
R/o.Aroor Village, Veligonda Mandal,
Nalgonda District.

..... PETITIONER

AND

$ 1 The Assistant Commissioner,

Endowments Department, Government of

Andhra Pradesh, Nalgonda

2 The Single Trustee Cum Executive Officer,

Machagiri, Sri Chennakeshava Swamy Temple
Aroor Village, Veligonda Mandal,
Nalgonda District.

.....RESPONDENTS

WRIT PETITION No. 176848 of 1999

Vedantam Srinivasa Chary S/o Late Venkata Chary
R/o Aroor Village, Veligonda Mandal,
Nalgonda District.

..... PETITIONER

AND

$ 1 Government of A.P., rep by its Secretary,

Revenue Department
Secretariat, Hyderabad

2 The District Collector,
Nalgonda District

3 The Sub-Collector
Bhongir, Nalgonda District.

4 The Commissioner Endowment Department

Government of A.P.
Boggulakunta, Tilak Road,
Hyderabad.

5 The Assistant Commissioner, Endowment Department,
Government of A.P., Hyderabad

6 The Mandal Revenue Officer
Veligonda Mandal, Nalgonda District

7 Macha giri Sri Chennakeshava Swamy

Temple rep.by its Executive Officer and Single Trustee,
Aroor Village, Veligonda Mandal,
Nalgonda District.

.....RESPONDENTS

Counsel for the Petitioners: MR.M.RAMA RAO (in both the writ petitions)

Counsel for the 2nd respondent in WP 12227 OF 1997 and for the 7th respondent in WP 16848 OF 1999: MR.KONDAVEETI RAVI.

Counsel for the 1ST respondent in WP 12227 OF 1997 and for the respondents 1 to 6 in WP 16848 OF 1999: GP FOR ENDOWMENTS (in both the writ petitions)

< GIST:

> HEAD NOTE:

? Cases referred

1. AIR 1996 SUPREME COURT 966
2. 2000 (6) ALT 239
3. AIR 1961 SUPREME COURT 1350

4. AIR 1996 SUPREME COURT 11

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NOs : 12227 of 1997 & 16848 of 1999

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WRIT PETITION NO: 12227 of 1997:

Between:

Vedantam Srinivasa Chary, S/o.late V.Venkatachary,
R/o.Aroor Village, Veligonda Mandal,
Nalgonda District.

..... PETITIONER

AND

1. The Assistant Commissioner,

   Endowments Department, Government of

   Andhra Pradesh, Nalgonda
2 The Single Trustee Cum Executive Officer,

   Machagiri, Sri Chennakeshava Swamy Temple
   Aroor Village, Veligonda Mandal,
   Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, writ or order one in the Nature of Mandamus:- a) declaring the action of the respondents in treating the lands bearing Survey Nos.79, 459, 460, 461, 466, 590, 784, 785, 786, 804, 805, 806, 811, 812, 813 and 814 situated at Aroor Village, Veligonda Mandal, Nalgonda District which are granted as an inam under Muntakhab dated.1357 Fasli to the petitioner's late father and later on, succeeded by the petitioner as temple lands of Sri Chenna Keshava Swamy Temple, Aroor village, Veligonda Mandal, Nalgonda District and putting them to public auction on 18/6/97 at 9-00 PM and also without cancellation of the occupancy rights certificate issued in respect of the above said lands through proceedings Dt.22/4/1993 bearing NO.F/2419/92 and recognized as a pattadar by issuing pattadar pass books under Record of Rights Act, Dt.16/1/95 belongs to Sri Chennakeshava Swamy Temple as arbitrary, illegal and auctioning the same through impugned notice Dt.28/5/1997 is illegal and against to the principles of natural justice and contrary to the provisions of the Endowments Act b) granting all consequential benefits c) awarding costs, or any other orders appropriate in the case may be passed.

WRIT PETITION NO : 16848 of 1999

Between:

Vedantam Srinivasa Chary S/o Late Venkata Chary
R/o Aroor Village, Veligonda Mandal,
Nalgonda District.

..... PETITIONER

AND

1. Government of A.P., rep by its Secretary,

   Revenue Department
   Secretariat, Hyderabad
2. The District Collector,
   Nalgonda District
3. The Sub-Collector
   Bhongir, Nalgonda District.
4. The Commissioner Endowment Department

   Government of A.P.
   Boggulakunta, Tilak Road,
   Hyderabad.
5. The Assistant Commissioner, Endowment Department,
   Government of A.P., Hyderabad
6. The Mandal Revenue Officer
   Veligonda Mandal, Nalgonda District
7. Macha giri Sri Chennakeshava Swamy

   Temple rep.by its Executive Officer and Single Trustee,
   Aroor Village, Veligonda Mandal,
   Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction Writ or order one in the nature of Mandamus:- a) declaring the action of the authorities in issuing the occupancy Rights (Patta) Certuificate under sub-rule-3 of rule-6 through proceedings dated: Nil 1997 bearing No. R/999/98 in respect of the lands bearing Survey No. 459, 460 461, 590, 784, 785, 786, 804, 805, 806, 811, 812, 813, 814 and 416 to an extent of 58 acres, 35 guntas situated at Aroor Village, Veligonda Mandal, Nalgonda District, for which already the Occupancy Rights (Patta) Certificate has been issued to the petitioner through proceedings dated: 22/4/1993 bearing No.3F/2419/92, without cancelling the occupancy rights (Patta) Certificate already granted and without conducting any inquiry under section- 10 of the Act and without giving any prior notice to the peititoner before issuing of the Occupancy Rights (Patta) Certificate in favour of Sri Chenna Keshava Swamy Temple, Armoor Village,Veligonda Mandal, Nalgonda District as arbitary illegal and against to the principles of natural justice; b) declaring the action of the authorities in applying the conditions as stipulated under the amended Act-19 of 1994, for which the occupancy rights (Patta) Certificate has been issued to the petitioner under section 4 of the Act, for which such conditions are not applicable to the occupancy Rights (Patta) Certificate issued to the Claimants, who have applied under Section 4 of the act, is arbitrary and illegal, c) also declare that the amended conditions do not apply to the petitioners claiming the Occupancy

Rights (Patta) Certificate; d) further declare that the occupancy Rights (Patta) Certificate issued to Sri Chenna Keshava Swamy Temple Armoor Village, Veligonda Mandal, Nalgonda District through proceedings No. F/999/98 dated Nil 97 may be cancelled; granting all consequential benefits; e) awarding costs; or any other order or orders appropriate in the case may be passed.

Counsel for the Petitioners: MR.M.RAMA RAO (in both the writ petitions)

Counsel for the 2nd respondent in WP 12227 OF 1997 and 7th respondent in WP 16848 OF 1999: MR.KONDAVEETI RAVI.

Counsel for the 1ST respondent in WP 12227 OF 1997 and for the respondents 1 to 6 in WP 16848 OF 1999: GP FOR ENDOWMENTS

The Court made the following :

HONOURABLE SRI JUSTICE P.S.NARAYANA

W.P.Nos.12227 of 1997 & 16848 of 1999

COMMON ORDER:

The principal controversy revolves around the Occupancy Rights (Patta)

Certificate (for brevity 'Certificate') granted by the competent authority viz., 3rd respondent-Sub Collector, Bhongir, Nalgonda District in W.P.No.16848 of 1999 under the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for brevity 'the Act of 1955') to the petitioner viz., Vedantam Srinivasa Chary and Sri Chennakeshava Swamy Temple (for brevity 'temple'), Aroor village, in relation to the lands, the subject matter of these writ petitions, which were granted to the respective parties without affording any opportunity to the other party. Though virtually these are rival claims for issuance of Certificates under the Act of 1955, relating to the self same property, the quasi judicial authority-cum-Sub Collector, Bhongir, decided these matters and issued Certificates in favour of both the petitioners in proceedings No.F/2419/92, dated 22-04-1993 and also the temple in proceedings No.P999/98, dated nil without hearing the other party.

2. Writ Petition No.12227 of 1997 was filed by the petitioner praying to issue a writ of mandamus declaring the action of the respondents in treating the lands bearing Survey Nos.79, 459, 460, 461, 466, 590, 784, 785, 786, 804, 805, 806, 811, 812, 813 and 814 situate at Aroor village, Veligonda Mandal, Nalgonda District, which are granted as an inam under Muntakhab bearing file No.10/25 of 1357 Fasli to the petitioner's late father and later on, succeeded by the petitioner, as temple lands of Sri Chenna Keshava Swamy Temple, Aroor village, Veligonda Mandal, Nalgonda District and putting them to public auction on 18-06-1997 at 9-00 AM and also without cancellation of the Certificate issued in respect of the above said lands through proceedings dated 22-04-1993 bearing No.F/2419/92 and recognized as a pattadar by issuing pattadar passbooks under Record of Rights Act, dated 16-01-

1995 belongs to Sri Chennakeshava Swamy Temple, as arbitrary, illegal and auctioning the same through impugned notice dated 28-05-1997 is illegal and against the principles of natural justice and contrary to the provisions of the Endowments Act and for other consequential benefits.

3. Likewise, Writ Petition No.16848 of 1999 was filed by the petitioner, praying to issue a writ of mandamus declaring the action of the authorities in issuing the Certificate under sub-rule (3) of rule-6 of Andhara Pradesh (Telangana Area) Abolition of Inams Rules, 1975 (for brevity 'Rules, 1975) through proceedings dated:Nil 1997 bearing NO.P/999/98 in respect of the lands bearing Survey Nos.459, 460, 461, 590, 784, 785, 786, 804, 805, 806, 811, 812, 813, 814 and 416 to an extent of 58 acres, 35 guntas situate at Aroor village, Veligonda Mandal, Nalgonda District, for which already the Certificate had been issued to the petitioner through proceedings dated 22-04-1993 bearing No.F/2419/92, without canceling the Certificate already granted and without conducting any inquiry under section-10 of the Act of 1955 and without giving any prior notice to the petitioner before issuing of the Certificate in favour of the Temple, Aroor village, Veligonda Mandal, Nalgonda District, as arbitrary, illegal and to declare the action of the authorities in applying the conditions as stipulated under the amended Act-19 of 1994 of the Act of 1955, for which the Certificate has been issued to the petitioner under Section 4 of the Act of 1955, for which such conditions are not applicable to the Certificate issued to the claimants, who have applied under section-4 of the Act of 1955 is arbitrary and illegal and also to declare that the amended conditions do not apply to the petitioner claiming the Certificate and further to declare that the Certificate issued to the

Temple, Aroor village, Veligonda Mandal, Nalgonda District through proceedings NO.P/999/98 dated:Nil ‘1997 may be cancelled while granting all consequential benefits.

4. The petitioner, in one, had questioned the proposed auction and in another, had questioned issue of Certificate in favour of temple under the Act of 1955 and in view of the fact that substantially common questions of fact and questions of law are involved, both the writ petitions are being disposed of by a common order.

5. This Court made interim orders in the aforesaid writ petitions. The Commissioner of Endowments filed counter affidavit in detail in W.P.No.16848 of 1999 and the temple filed W.V.M.P.No.3410 of 1999 in W.P.M.P.No.20911 of 1999 in W.P.No.16848 of 1999 to vacate the interim order dated 11-08-1999 in W.P.No.16848 of 1999, where the stand taken by the temple was specified.

6. Sri M. Ramarao, the learned counsel representing the petitioner in both the writ petitions made the following submissions:

The learned counsel had taken this Court through the respective pleadings of the parties and would contend that the proposed auction though the Certificate was granted in favour of the petitioner is intact as on today, is illegal and one without jurisdiction. The learned counsel also maintained that the issuance of Certificate in favour of the temple, when already a Certificate had been issued by the competitive authority in favour the petitioner, also is bad in law. The learned counsel also had taken this Court through the provisions of the Act of 1955 and also the Rules of 1975

made there under and also Section 76 of AP Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for brevity 'Act of 1987). The learned counsel, while elaborating the submissions, had pointed out to the forms of issuance of Certificate, which cannot be issued in favour of temple under the Act of 1955, and the amending provisions, which had been introduced in the said Act of 1955 and the impact thereof. The learned counsel specifically pointed out that the Certificate issued in favour of the petitioner under Section 4 of the Act of 1955 and hence, the same is not governed by the amended provisions. The learned counsel also had pointed out to the Sethwar and also the notice issued in Form No.II by the Sub-Collector, Bhongir and the further stand taken in the reply affidavit. The learned counsel also placed strong reliance on the decision of the Division Bench in W.P.No.30640 of 1997, dated 01-08-2001. Further reliance was placed on ***P.V.M.R.D.IYENGAR v. GOVT. OF A.P.*** and ***MOHD. RIAZUDDIN v. GOVT. OF A.P.*** It was submitted that the Sethwar, which had been relied on and all other relevant documents, also had been taken into consideration by the competent authority-Sub Collector, Bhongir, while issuing Certificate in favour of writ petitioner.

7 . Per contra, the learned Government Pleader for Endowments made elaborate submissions relating to the stand taken by the Endowment Department in this regard and had traced out certain historical aspects which had led to the legislation of the Act of 1987 and also the abolition of the hereditary rights of archakas. The learned Government Pleader further explained the ratio laid down in the decision (supra one cited) and the non-applicability thereof to the present case and also made an attempt to convince the Court that the view expressed by the Division Bench of this Court in

W.P.No.30640 of 1997, dated 01-08-2001, cannot be said to be the correct view in view of the fact that the very amendment was made to Section 4 by the Amending Act 19 of 1994 in the Act of 1955 itself. However, in the alternative, the learned Government Pleader submitted that the Certificate had been issued in favour of the petitioner without any notice to the temple in violation of principles of natural justice and hence, the same is nonest in the eye of law.

8. Sri Kondaveeti Ravi, the learned counsel representing the temple, while making elaborate submissions, placed strong reliance on ***BHEEMSENA RAO v.YELLA REDDI*** and also had taken this Court through the contents of the Certificate issued in favour of the temple and would contend that after conducting of proper enquiry, competent authority had issued Certificate in favour of the temple. The learned Counsel also would maintain that the petitioner has no legal right at all to make any plea whatsoever relating to issuance of Certificate under the Act of 1955 in the light of the provisions under Section 4 of the Act of 1955, as amended in view of the fact that Amendments had been introduced in Section 4 of the Act of 1955. The learned Counsel also would further maintain that merely because some provision had been specified in the Certificate, the petitioner cannot take advantage of the situation and cannot sustain the Certificate, on the strength of the decision of the Division Bench of this Court referred to supra. The learned Counsel had taken this Court through the averments made in the affidavit filed in support of the vacate stay petition, wherein, the stand taken by the temple was made very clear. The learned Counsel had pointed out that even otherwise, the competent authority, a quasi judicial authority had made an order granting Certificate in favour of the temple

after due enquiry and on such order an appeal under Section 24 of the Act of 1955 is available and hence, without exhausting the appellate remedy, the petitioner cannot straight away approach this Court by invoking the jurisdiction under Article 226 of the Constitution of India.

9. Heard the counsel.

10. In W.P.No.12227 of 1997, second respondent is the temple and the proposed auction dated 18-06-1997 at 9 AM without canceling the certificate issued in respect of the lands mentioned in the writ petition had been questioned. In W.P.No.16848 of 1999, seventh respondent is the temple, 3rd respondent is the Sub-Collector of Bhongir, the competent authority and in the said writ petition the certificate issued vide proceedings bearing No.P/999/98 dated Nil and issuance thereof in favour of the temple without canceling the Certificate already issued in favour of the petitioner without conducting enquiry had been questioned.

11. The specific case of the petitioner is that his forefather namely Sri Jogaiah Chary was given agricultural lands admeasuring Ac.70-03 gts., bearing Survey Nos.459, 460, 461, 590, 784, 785, 786, 804, 805, 806, 811, 812, 813, 814 and 416 at Aroor Village, Veligonda Mandal, Nalgonda District and after his death the father of the petitioner Vedantam Venkata Chary succeeded to the inam lands and the said inam lands were given through Muntakhab bearing file No.10/25 of 1357 Fasli on 06-09-1956 Fasli. After the death of his father, a succession had been granted in favour of the petitioner in the year 1959 and since then the petitioner has been in occupation of the above said lands as inamdar. After abolition of the inams, the

petitioner had applied for grant of Certificate for the said inam lands and the Sub-Collector, Bhongir-competent authority, after thorough enquiry, under Section 10 of the Act of 1955 and under sub-rule (3) of Rule 6 of the Rules of 1975 had issued proceedings dated 22-04-1993 bearing No.F/2419/92 in respect of the lands bearing Survey Nos.459, 460, 461, 590, 784, 785, 786, 804, 805, 806, 811, 812, 813, 814 and 416 to an extent of Ac.58-35 gts. situate at Aroor village, Veligonda Mandal after the amended Act 29 of 1985 of the Act of 1955. It may be appropriate to have a look at the said certificate dated 22-04-1993, which is hereunder:

Office of the

Sub-Collector:: Bhongir.

No.F/2419/92 Dt.22-04-1993

Form – III

(See Sub-rule 3 of Rule 6)

In accordance with the provisions of section-10 read with section-4(2) of the Andhra Praesh (T.A.) Abolition of Inams Act 1954, Sri Vedantham Srinivasa Chary, S/o. Venkata Chary, resident at Aroor (v) of Valigonda mandal shall be registered as an occupant in respect of the land specified to the schedule below and shall be liable to pay to Government an amount of Rs.4007-50 towards premium in (10) instalments commencing from 01-4-1992, he shall also liable to pay the land Revenue Assessment in respect of the said land in accordance with the provisions of the Act in Section.

THE SCHEDULE

----------Village
Sy.No. Extent Wet or Dry Remarks

---------- 1 2 3 4 5

----------Aroor 459
1-08 wet Dastagarda Lands

460 0-08 ,,

461 0-32 ,,

590 8-36 Dry

784 0-16 ,,

785 2-14 ,,

786 0-38 Wet

804 4-11 Dry

805 1-19 ,,

806 0-37 Wet

811 11-29 Dry

812 1-38 Wet

813 1-16 ,,

814 21-19 Dry

416/ 0-34 Wet

58-35

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sd/--

SUB-COLLECTOR,

BHONGIR."

12. The petitioner paid the entire premium amount fixed by the said authorities amounting to Rs.4,007-50 ps. and the said certificate became final and the petitioner became the owner of the said lands under the Act of 1955. The Inspector of Endowments Department, Bhongir, through his notice dated 20-12-1995 bearing No.IN/95 had directed the petitioner to handover the aforesaid lands alleging that the lands are temple lands and they are under the Endowment Department and the petitioner filed a representation on 04-01-1996 stating that the

aforesaid lands are not temple lands and patta already had been granted in favour of the petitioner under the Act of 1955. Further, the Mandal Revenue Officer also had issued patta passbook. Thus the Record of Rights also had been recognized. Thus even as per the revenue records, the petitioner became absolute owner of the aforesaid lands. The Assistant Commissioner, Endowments Department issued notice dated 03-01-1996 bearing letter No.B/50/96 to the effect that the petitioner was making attempt to alienate portion of the land and hence, petitioner was called for hearing and the date of hearing was fixed through proceedings dated 18-03-1996 directing him to appear on 01-04-1996 and the petitioner appeared for enquiry and no enquiry had been taken place on the aforesaid day. Surprisingly, a notice dated 28-05-1997 was issued by the Executive Officer-Single Trustee of the temple putting the said lands for public auction treating them as temple lands and the said notice was questioned by the petitioner in W.P.No.12227 of 1997 wherein interim suspension was granted.

13. While the matters stood thus, the competent authority without giving any notice and without canceling the certificate issued in favour of the petitioner had issued yet another Certificate for the selfsame lands by proceedings bearing No.P/999/98 dated Nil'1997 under the Act of 1955 in the name of the temple and on coming to know about the same, the petitioner had obtained the copy of the said certificate from the Mandal Revenue Officer in the last week of July 1999.

14. Specific stand was taken that the petitioner applid for Certificate under Section 4 of the Act of 1955 and after due enquiry the competent authority had issued the said Certificate and hence, in the said circumstances, the department

putting the lands to auction cannot be sustained and equally the Certificate issued in favour of the temple also cannot be sustained. It may be appropriate to have a look at the certificate issued under Form III by the competent authority in favour of the temple, which reads as hereunder:

"Sub-Collector Office

Bhongir.

No.P/999/98 Dt.--1997

Form – III

(See Sub-rule 8 of Rule 6)

In accordance with the provisions of section-10 read with section-- of the Andhra Praesh (T.A.) Abolition of Inams Act 1954.

Sri Chenna Keshawa S.T., resident at Aroor (v) of Valigonda mandal shall be registered as an occupant in respect of the land specified to the schedule below and shall be liable to pay to Government an amount of Rs.-- towards premium in lumsum. He/she shall also liable to pay the land revenue assessment in respect of the said land in accordance with the provisions of the Act in Section.

THE SCHEDULE

----------Village
Sy.No. Extent Wet or Dry Remarks

---------- 1 2 3 4 5

----------Aroor 79
12-07 Dry

459 1-08 wet

460 0-08 Dry

461 1-32 Wet

590 0-39 Wet

784 8-36 Dry

785 0-16 Dry

786 2-04 Wet

804 0-38 Dry

805 4-11 ,,

806 1-09 Wet

811 0-37 Dry

812 11-29 Wet

813 1-38 Wet

814 1-06 Wet

416/ 21-19 Dry

71-17

Sd/--

SUB-COLLECTOR,

BHONGIR."

15. In the counter affidavit filed in detail by R-4- the Commissioner of Endowments in W.P.No.16848 of 1999, specific stand was taken that these agricultural lands were given to Jogaiah Chary for the purpose of rendering service in the temple and the occupancy rights under the provisions of the Act of 1955 are not applicable to the lands belonging to the temple. The relevant provisions of the Act of 1955 also had been specified and further stand was taken that any Certificate issued in favour of any person other than the religious institution is null and void as per amended Act, 1994 and the petitioner was issued certificate in 1993 without notice and knowledge to the temple authorities. Several other details relating to the nature of these lands and the records pertaining thereto also had been narrated in detail.

16. Specific stand was taken that a close scrutiny of the entries in the book of

endowments would reveal that these lands are covered by the Survey Numbers, which had been andowed to the temple but they are in possession of the Pujaries/Archakas for the purpose of rendering Archakatwam service and the lands in favour of these institutions are burdened with the said service and the petitioner cannot make such a claim at all.

17. Further stand had been taken that the authorities under the Act of 1955 had committed a mistake in entertaining the application of the petitioner for issuance of the Certificate and objections could not be raised inasmuch as without the knowledge of the temple authorities the same had been done by the competent authority. Further stand had been taken that the possession of the subject lands had been given to the petitioner's father for rendering service to the deity. The hereditary rights of Archakas were abolished by the Act of 1987 (Act No.30 of 1987). The petitioner cannot claim the occupancy rights against the lands vested for the service of the temple. That is the reason why the authorities have now issued present Certificate in favour of the institution which is impugned in this writ petition. There is no illegality in issuing the Certificate in favour of the temple. It is also necessary to submit here that the entries in the book of Endowments and other proceedings like Kasara Pahani of 1954 and 1955 also establish that the petitioner's father Vedanta Venkata Chary was in possession of the land as Service Holder. The setwar issued by the Revenue Department in the year 1954-1955 also indicates that the subject lands covered by the impugned proceedings are Mushrutual Kidmat Inam lands and they are in possession of Vedantam Venkata Chary for rendering service to the temple. This also indicates that the subject lands belong to the temple i.e., kidmat

inam lands granted in favour of the institution. Except this, the petitioner has no independent claim or right or title against these lands.

18. The contention of the petitioner that he was issued the occupancy certificate under Section 4 of the Act of 1955 and that the Amendment Act indicates that the Certificates issued under Section 5, 6, 7 and 8 of the Act of 1955 are null and void is not at all correct. The petitioner is not an inamdar. The petitioner's father was the Archaka of the temple and the fruits of the lands can be enjoyed by the Archaka only for the service rendered to the temple. Except that the petitioner has no claim or right over the lands of the temple.

19. It is necessary to submit here that now the petitioner is not rendering service to the temple. However, he is claiming occupancy rights over the lands belonging to the temple. Now the temple is not having any other property except these lands, and the temple is not getting any other income. Nobody is coming forward to perform pooja, dheeparadhana and other daily rituals in the subject temple. Therefore, respondent No.7 as an Executive officer and Single Trustee issued notices on 28-05-1997 contemplating to put the said lands for public auction treating them as temple lands and the same petitioner filed W.P.No.12227 of 1997 questioning the said notice and obtained interim stay. Consequently, the auction could not be held in respect of the said lands belonging to the temple. The said writ petition is still pending.

20. The further contention of the petitioner that the issue is covered by the judgment of the Hon'ble Supreme Court reported in the decision (cited one supra) is not at all correct. It pertains to AP (Andhra Area) Inams (Abolition and Conversion

into Ryotwari) Act (37 of 1956). The said judgment is not applicable to the facts and circumstances of this case. The Honourable Supreme Court held that without amending law in the Inam Abolition Act and without properly removing the foundation of the judgment of the High Court to destroy the effect of the law in Inam Abolition Act on an erroneous belief or assumption that it did not bind the religious or charitable institutions or Endowments or that the holder of the land did not acquire title or no patta was granted to him and the land was still with the institution and treating the occupant as encroacher depriving the holder of the land or vested rights acquired under the Inam Abolition Act. Now, the Act of 1955 was amended. Therefore, there is no embargo under Section 76 of the Endowments Act, 1987. The occupancy certificate issued in favour of the petitioner in 1993 is in violation of Section 4 of the Amendment Act, 1994 in the Act of 1955. The petitioner is not an Inamdar. The temple is only Inamdar. Hence, the impugned proceedings issued by the Sub-Collector is perfectly legal and valid and it does not call for any interference from this Court.

21. The temple also had taken the selfsame stand that an objection was taken relating to the maintainability of the writ petition on the ground that the alternative remedy of appeal under Section 24 of the Act of 1955 is available. Further the temple had taken specific stand to the effect that Section 4 of the Act of 1955 was amended with retrospective effect from 26-12-1983 that where any person other than the concerned charitable or religious institution has been registered as an occupant

under sections 5, 6, 7 and 8 after commencement of the Act of 1955, such registration shall be deemed to have been null and void and no effect shall be given to such registration. It is necessary to submit here that the petitioner herein is not an inamdar. Any Certificate issued in favour of any person other than the religious institution is null and void as per the Amendment Act of 1994. As per the Amendment to Section 4 of the Main Act of 1955, any Occupancy Certificate issued by the authorities after 26-12-1985 will become null and void. It is also necessary to submit here that when the petitioner was issued Occupancy Certificate in1993, it was issued without the knowledge of the temple authority. It is also necessary to submit here that the petitioner mentioned in the writ petition that the Amendment is not applicable to him. He also did not mention how the Amendment is not applicable to him.

22. It was further specified that the lands admeasuring about

Ac.70-00 Gts. covered by Survey Numbers belong to the temple. To prove that the lands belong to the temple, reliance was placed on entries in the book of Endowments issued by the then Tahsildar, Ramayampet Taluk (presently Mandal Revenue Officer, Velugonda). The said entries, refer to Book of Endowments issued by the then Tahasil Office, Ramayampet in the year 1954, are concluded and the entries mentioned therein indicating that the inam land covered by several survey numbers admeasuring to an extent of Ac.70. 03guntas are inam lands of the temple. A close scrutiny of the entries in the Book of Endowments clearly reveals that these lands were covered by several survey numbers and have been granted to the temple, but they were in possession of the Poojaries/Archakas for the purpose of

rendering archakatvam service. The lands so granted in favour of the institution are burdened with service. Hence, the claim of the petitioner has no legal sanction. It is submitted that the authorities under the Act of 1955 have committed a mistake in entertaining the application of the petitioner for issuance of occupancy certificate ignoring the said legal and factual position. As already submitted, it has been issued without the knowledge of the temple authorities in 1993. Had this been brought to the notice of the temple authorities in 1993 while granting Certificate to the petitioner, the temple authorities could have objected. Thus, the Certificate issued in favour of petitioner on

22-04-1993 is nonest in law.

23. It is further stated that once upon a time the possession of the said lands had been vested in favour of the petitioner's father to render service to the deity. The hereditary rights of Archakas were abolished by Act No.30 of 1987. The provisions of the said Act were upheld by the Hon'ble Supreme Court also. The petitioner cannot claim the occupancy rights against the lands vested for the service of the temple. That is the reason why the authorities have now issued present Certificate in favour of the Institution which is impugned in this writ petition. There is no illegality in issuing the Certificate in favour of the temple. It is also necessary to submit here that the entries in the book of Endowments and other proceedings like Kasara Pahani of 1954 and 1955 also establish that the petitioner's father Vedantam Venkata Chary was in possession of the land as Service Holder. The Setwar issued by the Revenue Department in the year 1954-55 also indicates that the subject lands covered by the impugned proceedings are Mushrutual Kidmat Inam lands and in

possession of Vedantam Venkata Chary rendering service to the temple. This also indicates that the subject lands belong to the temple i.e., Kidmad Inam lands granted in favour of the institution. Except this, the petitioner has no independent claim or right or title against these lands. The further contention of the petitioner that he was issued the Certificate under Section 4 of the Act of 1955 and that the amendment Act indicates that the Certificate issued under Sections 5, 6 and 8 of the Act of 1955 are null and void is not all correct. The petitioner is not an inamdar. The petitioner's father was the Archaka of the temple and the fruits of the land can be enjoyed by the Archaka only for the service rendered to the temple. Except that, there is no claim or right over the land of the temple.

24. Further specific stand was taken that the petitioner is not rendering service to the temple at present. But however, he is claiming occupancy rights for the land belonging to the temple and the temple is not having any other property except these lands and the temple is not getting any other income and nobody is coming forward to perform Pujas, Deeparadhana and other daily rituals in the temple and hence the Executing Officer and Single Trustee issued notice on

28-05-1997 contemplating to put the said lands for public auction treating them as temple lands. Several other details relating to the relevant provisions of the Act of 1955 and Rules of 1975 framed there under and also the provisions of Act 30 of 1987 had been specified in the counter affidavit filed by the temple.

25. A reply affidavit was also filed by the petitioner again explaining several details and reiterating the same stand taken in the main affidavits filed in support of the writ petitions.

26. It is not in serious controversy that the Certificates had been issued relating to the self same lands, both in favour of the petitioner and also in favour of the temple by the competent authority and though these are rival claims, the competent authority a quasi judicial authority under the Act of 1955 made the relevant orders without putting the rival claimant on notice and without considering the objections, if any, in relation thereto.

27. In ***TATA CELLULAR v. UNION OF INDIA*** a three Judge Bench of the Apex Court at page 26 held that:

> "The duty of the Court is to confine itself to the question of legality. Its concern should be:
>
> 1. whether a decision-making authority exceeded its powers?
> 2. committed an error of law.
> 3. committed a breach of the rules of natural justice.
> 4. reached a decision which no reasonable Tribunal would have reached or.
> 5. abused its powers."

28. Reliance was also placed on the decision (supra one cited), where the Apex Court was dealing with Section 76 of the Act of 1987 and Section 7 of (Act 37 of the Act of 1956) at para-16 held as hereunder:

> "It would thus be clear and we hold that without amending the law under Inam Abolition Act and without properly removing the foundation of the judgments rendered by the High Court, the legislature sought to destroy the effect of the law in Inam Abolition Act on erroneous belief or assumption that it did not bind the religion or charitable institutions or endowment or that the holder of land did not acquire title or no patta was granted to him and the land was still with the institution and treated the occupant as encroacher. The legislation founded on such an erroneous assumption does not have the effect of depriving the holder of the land or their vested rights acquired under the

Inams Abolition Act. The legislature has plainly misfired. Accordingly, we hold that Section 76 and Explanation II to Section 2(22) of the Act to that extent are invalid and unconstitutional."

29. In Mohd. Riazuddin v. Govt. of A.P. (2nd cited cupra), it was held that:

"The Court can interfere if a question of law arises from facts of the case. Construction of entries in Inam Fair Register and Revenue Record is a question of law. Issue of law arises if decision-maker decides matter based on partly relevant and partly irrelevant factors-District Collector misdirected himself in assuming that the land in question was acquired for grave yard and that the earlier application for occupancy certificate was rejected. Scrutiny of such order of District Collector in writ petition with reference to Section 10 of the Inams Abolition Act-permissible."

30. Strong reliance was placed on the decision (cited three supra), wherein i the Service inam grant and personal inam burdened with service to an institution thereof in relation to Section 44-B (1) and (2) of Madras Hindu Religious Endowments Act (2 of 1927) had been dealt with and the Apex Court while dealing with this aspect, held that:

"The question for consideration is whether a personal inam burdened with service to a temple can be said to come within the meaning of the words "any inam granted for the performance of a service connected with a temple". It is urged that the words used in S. 44-B (1) are of very wide import and any personal grant of land howsoever large, if it is burdened with some service to a temple howsoever small, would be within the meaning of these words and would therefore come within the terms of S.44-B (1). The High Court has repelled this wide construction of the words used in S.44-B (1), and we think rightly. The distinction between a grant for an office to be remunerated by the use of land and a grant of land burdened with service is well known in Hindu law. The former is a case of a service grant and is resumable when the service is not performed. The latter is not a service grant as such but a grant in favour of a person though burdened with service and its resumption will depend upon whether the circumstances in which the

grant was made establish a condition that it was resumable if the service was not performed: (see Lakhamgouda Basavprabhu v. Baswantrao, 61 Mad LJ 449: (AIR 1981 PC 157)). The question therefore is whether S.44-B covers only the first type of grant, (namely, a service grant) and not a personal grant burdened with service.

Inams falling under class (a) were to be governed by the provisions of the Act while inams falling under class (b) were to be governed by B.S.O. 54 as heretofore. This amendment would also show that all religious inams, i.e., inams which had some connection howsoever slight with a temple or other religious institution were not to be governed by S.44-B and only those inams which were granted for the performance of a charity or service connected with a Hindu math or temple were to be dealt with under S.44-B while others would still be governed by B.S.O. 54. We therefore agree with the High Court that this history affords a clue to the interpretation of S.44-B (1) and suggests that though the words used in S.44-B are open to a wide interpretation, the intention was to bring within its purview only those inams which were granted directly to the temple and also those inams which were granted for the performance of a charity or service connected with a math or temple, i.e., service inams or such inams the whole income of which was for charity and not those inams which were personal inams though burdened with some service to a temple or math. As we have already said the land granted under a personal inam burdened with service may be very large and the service expected may be very slight, and it could not be the intention of the legislature when it enacted S.44-B (1) that large personal inams with slight service attached to them should be resumed and regranted to the temple under S.44-B (1) for failure to perform the service with which the grant was burdened. It would make no difference to the validity of this argument even if the service attached absorbed a larger portion of the inam leaving only a smaller portion to the grantee.

This conclusion is in our opinion enforced if we look at cl. (iii) of S.44-B (2) (a) which permits resumption of an inam on the ground that either the math or temple has ceased to exist or the service in question has in any way become impossible of performance. Now, it could not be the intention of the legislature, where an inam was granted as a personal inam though burdened with some service to a temple or math, that such inam should be resumed simply because the math or temple has ceased to exist or for some other reason the service has become impossible of performance. The nature of a personal inam burdened with service is that it is meant for the individual to whom it is granted though the individual is required to perform some service to the temple also. The legislature could not have intended when it enacted S.44-B (2) (a) (iii) that even such an inam should be resumed when the math or temple ceases to exist. But this would be the result if the wide interpretation contended for by the appellants is accepted. In such a case obviously the personal portion of the grant has to be separated from the

service portion and if the service is not performed it is only the service portion that is liable to resumption. Further, if we look at S.44-B (2) (f) (i), it provides that where an inam is resumed under S.44-B (1) it shall be regranted as an endowment to the temple or math concerned. In the case of a personal inam burdened with service it will mean that if the service is not performed the whole inam would be liable to resumption and would be re-granted to the temple, thought the inam was granted to an individual and the service with which it was burdened might have been slight, the remaining income of the inam being, intended as a personal grant to the individual. Therefore, when S.44-B (2) (f) (i) provides for re-grant of the resumed inam to the temple it presumes that the whole of the inam resumed was meant for service of the temple and there was no element of personal grant in it. It is on that basis that we can understand the re-grant of the resumed inam to the temple, the idea behind the word "re-grant" being that originally also it was granted for the temple though as a service inam. Similarly, S.44-BB (2) (f) (ii) provides that where the math or temple has ceased to exist and an inam is resumed on that ground it shall be re-granted as an endowment to the Board for appropriation to such religious, educational or charitable purposes not inconsistent with the objects of such math or temple, as the Board may direct. Here again it seems to us that the legislature could not have intended that a personal inam granted to an individual though burdened with service should be resumed when the temple has ceased to exist and the service could not be performed and should be taken over by the Board as an endowment for such purposes as the Board may direct. Such a provision would completely overlook the personal part of a personal inam burdened with service. Therefore, the view taken by the High Court that S.44-B (1), though on a wide interpretation it might also include personal inams burdened with service, is really confined to inams directly granted to the temple or service inams for the purpose of a temple or math or inams the whole of the income of which is meant for charity and does not include personal inams burdened with service, is correct. Such inams would continue to be dealt with under B.S.O.54, class (b) as introduced by the amendment to that Order. In this view, there is no force in this appeal and it is hereby dismissed with costs."

31. It is no doubt true that the Certificate was issued by the competent authority in favour of the petitioner under Section 4 of the Act of 1955, the contents of the Certificate had been already referred to supra.

32. No doubt certain submissions were made in relation to the authority or jurisdiction of the competent authority to entertain a claim of this nature from the

petitioner and competency to issue such a Certificate under the provisions of the Act of 1955. Strong reliance was placed on the decision of the Division Bench dated 01-08-2001 in W.P.No.30640 of 1997, to the effect that the amended provisions of the Act by the Amendment Act 19 of 1994 in the Act of 1955 are not applicable to a case of issuance of Certificate under Section 4 of the Act of 1955. It is pertinent to note that the specific stand taken by the Endowment Department and the temple is that the competent authority has no authority at all to entertain such a claim of the petitioner in the light of the abolition of the hereditary rights and also in the light of the other statutory provisions which had been introduced by the Amending Acts. It is equally essential to note that the petitioner had been attacking the Certificate issued in favour of the temple on the ground that when already Certificate issued in relation to the subject lands in favour of the petitioner is intact even without putting him on notice and without calling for any objections in this regard, issuance of yet another Certificate in favour of the temple is bad in law. The Act of 1955 (Act VIII of 1955) is in public interest to provide individual abolition of inams in Telangana of the State of Andhra Pradesh and in other matters connected therewith. Section 4 of the Act of 1955 dealing with Registration of Inamdars as occupants, reads as hereunder:

> **"Section 4:- Registration of Inamdars as accupants:--**
>
> (1) Every inamdar shall, with effect from the date of vesting, be entitled to be registered as an occupant of all inam lands other than--

a. lands set apart fro the village community, grazing lands, waste lands, forest lands, mines and quarries, tanks, tank-beds and irrigation works, streams and rivers;
b. lands in respect of which any person is entitled to be registered under Sections 5, 6, 7 and 8 of the Act;

c. lands upon which have been erected buildings owned by any person other than the inamdar;

Which immediately before the date of vesting, were under his personal cultivation and which, together with any lands he separately owns and cultivates personally are equal to four and a half times the 'family holding'.

{"Provided that where imams are held by or for the benefit of charitable and religious institutions no person shall be entitled to be registered as an occupant under Sections 5, 6, 7 and 8 and the institution alone shall be entitled to be registered as an occupant of all inam lands other than those specified in clauses (a) and (c) above without restriction of extent to four and half times the family holding and without the condition of personal cultivation:

Provided further that where any person other than the concerned charitable or religious institution has been registered as an occupant under Sections 5, 6, 7 and 8 after the commencement of the Andhra Pradesh (Telangana Area) Abolition of Inams (Amendment) Act, 1985 such registration shall and shall be deemed always to have been *null* and *void* and no effect shall be given to such registration."}

(2) No inamdar shall be registered as an occupant of any land under sub-section (1) unless he pays to the Government as premium an amount equal to twenty-five times the difference between the judi or quit-rent, if any, paid by him and the land revenue payable in respect of such land. The amount of premium shall be payable in not more than ten annual instalments along with the annual land revenue and in default of such payment, shall be recoverable as arrears of land revenue due on the land in respect of which it is payable.

(3) The inamdar shall be entitled to compensation from the Government as provided for under this Act in respect of inam lands in his possession in excess of the time limits specified in sub-section (1) whether cultivated or not.

4. ……..."

33. The proviso which had been introduced by the Amendment Act 19 of 1994 no doubt specifies Sections 5, 6, 7 and 8 of the Act of 1955 and does not specify Section 4 of Act of 1955 though the Amendment had been introduced to Section 4 of the Act of 1955 itself.

34. Be that as it may, the Division Bench of this Court had expressed the view that

such Certificate issued under Section 4 of the Act of 1955 would not be covered by the Amendment Act referred to supra. As already referred to above, the very competency of the competent authority to entertain the claim of the petitioner had been seriously questioned. Section 2 of the Act of 1955 deals with definitions and Section 2 (1) (c) of the Act of 1955 defines 'inam' which reads as hereunder.

> " 'inam" means land held under a gift or a grant made b the Nizam or by any Jagirdar, holder of a Samsthan or other competent grantor and continued or confirmed by virtue of a muntakhab or toher title deed, with or without the condition of service and coupled with the remission of the whole or part of the land revenue thereon and entered as such in the village records and includes —
>
> i. arazi makhta, arazi agrahar and seri inam; and
> ii. lands held as inam by virtue of long possession and entered as inam in the village records:
>
> Provided that in respect of former Jagir areas, the expressioni inam shall not include such lands as have not been recognized as imams by Government after the abolition of the Jagirs."

35. Section 2 (1) (d) of the Act of 1955 defines 'inamdar' as in this Act unless there is anything repugnant in the subject or context,

> **"** 'inamdar' means a person holding an inam or a share therein, either for his own benefit or in trust and includes the successor in interest of an inamdar, and—
>
> i. where an inamdar is a minor or of unsound mind or an idiot, his lawful guardian;
> ii. where an inamdar is a Joint Hindu family, such joint Hindu family:"

36. Sub section (2) of Section 2 of the Act of 1955 says:

" Words and expressions used in this Act but lnot defined therein shall have the meaning assigned to them in the Land Revenue Act, 1317 Fasli, {the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950}, Act XXI of 1950 and {the Andhra Pradesh (Telangana Area) Atiyat Enquiries Act, 1952} Act, X of 1952 and the rules thereunder."

37. The Rules of 1975 were framed in exercise of powers conferred by sub section (1) of Section 35 of the Act of 1955. Rule 5 of the Rules of 1975 deals with application, enquiry by the Collector, for the purpose of registration of inamdar and the like, which reads as hereunder:

"Rule 5. Application, enquiry by the Collector, for the purpose of registration of inamdar and the like:-

Any enquiry for the registration of an inamdar, kabiz-e-kadim, permanent tenant, protected tenant and non-protected tenant or his successors in interest as an occupant under Sections 4,5,6,7 and 8 of the Act in respect of inam land which was in his possession on the date of vesting shall be made by the Collector, either *suo motu* at any time or on an application made by an Inamdar, Kabiz-e-kadim etc. Where an application is made, it shall be in Form-I and shall be signed by the applicant. Where an application is made by a person other than the Inamdar, such Inamdar shall be made a party to the application. In respect of inams, for which no application has been filed, the Collector shall take up *suo motu* enquiry. No person shall be given a certificate of registration as an occupant in respect of communal lands, uncultivated lands, waste lands, pasture lands, grazing lands, forests, mines and minerals, quaries, rivers and streams, tanks, tank beds and irrigation work, fisheries and ferries and lands set apart for the village community which vested absolutely in the State free from all encumbrances:

Provided that in respect of inams held by or for the benefit of charitable and religious institutions (Wakfs, Temples, Charitable and Religious Endowments etc.), the application for the purpose of registration shall be made by the Trustee, Managing Committee, Executive Officer or other person in-charge of the management of such charitable and religious institutions";]

38. Rule 6 of the Rules of 1975 deals with Registration of non-protected tenant as

occupant, which reads as hereunder:

"Rule 6. Registration of non-protected tenant as occupant:-

(1) on receipt of an application under Rule 5 or in *suo motu* enquiry, the Collector shall issue a notice in Form II to every [person claiming interest or having interest in the land specified in such notice, fixing a date on which an enquiry is to be held and calling for objections, if any, within a period of fifteen days from the date of publication of such notice.

(2) on the date fixed under sub-rule(1) or any subsequent date to which the enquiry may be adjourned, the Collector shall give to the parties interested, a reasonable opportunity of being heard and to adduce such evidence, both oral and documentary, as may be necessary and shall, also examine such other person or persons and documents, if any, as he considers necessary to ascertain in the area of the land held by the applicant and pass an order under Section 10 and determine-

a. the extent of Inam land to which the Inamdar, kabiz-e-kadim etc., is entitled to be regarded as an occupant;

b. the amount of premium payable by the occupant to the Government, for the land to be registered and the number of instalments in which the premium is payable; and

(c) the extent of the inam land that has to be taken over from the [Inamdar kabiz-e-kadim etc., in excess of the limits specified in the Act.

["(3) (a) a certificate of registration of Inamdar, kabiz-e-kadim etc., as an occupant of the extent determined under clause (a) of the sub-rule (2) of Rule (6) shall be issued in Form III;

(b) A certificate of registration of occupants in Form III, in respect of Inams attached to charitable and religious institutions (Wakfs, Temples, Charitable and Religious endowments etc.) shall be issued only in favour of such institutions and not in favour of individuals managing them performing service in them."

39. Form II and Form III read as specified hereunder:

FORM II

(See sub-rule (1) of Rule 6)

Whereas it is proposed to determine under Section 10 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1954 the person entitled to be registered as an occupant as under.

Section …… in respect of Inam land specified, below:-

S.No.	Village	Wet or Dry	Extent	Nature of Inam	Remarks
(1)	(2)	(3)	(4)	(5)	(6)

You are hereby required to appear before the undersigned on …….. (dated) at ……(time) and …… (place) and make such representation and adduce such evidence in support of your claim as may be necessary falling which the matter will be decided on the basis of material available on record.

(Sd.)

FORM III

(See sub-rule (3) of Rule 6)

In accordance with the provisions of section ……. Read with Section 10 …….. of the Andhra Pradesh (T.A.) Abolition of Inams Act, 1954,

Sri/Smt. …… son of …… daughter of …….. ……. Wife of …….. Sri ……. Residing at ……..….. village shall be registered as an occupant in respect of the land specified in the Schedule below and shall be liable to pay to Government an amount of Rs. ……. Towards premium in (……) instalment commencing from …… He/she shall also liable to pay the land revenue assessment in respect of said land in accordance with the provisions of the Act in section.

THE SCHEDULE

S.No.	Village	Extent	Wet or Dry	Remarks
(1)	(2)	(3)	(4)	(5)

40. Section 10 of the Act of 1955 deals with Enquiry by Collector in certain cases which reads as hereunder:

> **"Section 10: Enquiry by Collector in certain cases:--**
>
> The Collector shall examine the nature and history of all lands in respect of which inamdar kabiz-e-kadim, permanent tenant, protected tenant or non-protected tenant, claims to be registered as an occupant under Sections 4, 5, 6, 7 and 8 as the case may be, and decide—
>
> a. In whose favour, and in respect of which inam lands, the claims should be allowed:
>
> b. the land revenue and the premium payable in respect of such lands."

41. Section 24 of the Act of 1955 deals with Appeals from orders under Section 10 to prescribed authority, which reads as hereunder:

> **"Section 24: Appeals from orders under Section 10 to prescribed authority:--**
>
> 1. Any person aggrieved by a decision of the Collector under Section 10 may, within thirty days from the date of decision, or such further time as the prescribed authority may for sufficient cause allow, appeal to the prescribed authority and its decision shall be final.
>
> 2. If any question arises whether any building or land fails within the scope of Section 9 of the same shall be referred to the prescribed authority whose decision shall be final."

42. But, here is a case where already a Certificate issued by the competent authority

in favour of the petitioner is subsisting and whatever may be the rights of the petitioner or the rights of the temple in this regard without putting him on notice and without calling for objections, if any, in this regard, competent authority making an order while exercising quasi judicial powers, definitely cannot be sustained.

43. On a careful reading of the different provisions of the Act of 1955 and also Rules of 1975 referred to supra, though the remedy by way of appeal is provided for inasmuch as this is an action made in contravention of the principles of natural justice, for non observance of the said principles of natural justice, the said order made by the competent authority is bad in law.

44. It is no doubt true that if no other conclusion is possible on admitted or undisputable facts, even if opportunity could have been given, it may not be necessary to quash the order in all such cases though the same had been made in violation of principles of natural justice. But, however, this being an exception, great care must be taken in applying this exception. It is needless to say that this is not a case of such nature where the said exception can be invoked.

45. The scheme of the Act of 1955 and also the different provisions in general, Section 10 of the Act of 1955 in particular read with Rules 5 and 6 of the Rules of 1975 would make it clear that reasonable opportunity to be given to the persons having claims or the persons interested in raising objections in relation thereto and then adjudicate such claims in accordance with law.

46. It is really unfortunate that in a matter of this nature, where the lis between the parties is in relation to a large extent of land, the competent authority-cum-Sub

Collector, Bhonagir, had issued one Certificate in favour of the petitioner and issue yet another Certificate in favour of the temple without considering all the claims in relation thereto this and also all objections, which may be raised by the respective parties.

47. Therefore, this Court is satisfied that the competent authority-quasi judicial authority had not made the issuance of Certificates both in favour of the petitioner and also in favour of the temple in accordance with law and both these proceedings suffer from the vice of non observance of principles of natural justice and also the provisions of the Act of 1955 and the Rules of 1975 made there under and hence, the said Certificates are liable to be quashed. The competent authority-Sub Collector, Bhonagir is directed to issue notice to the petitioner and also to the temple and all the other interested parties, if any, and receive claims and objections in relation thereto relating to the properties referred to supra, within a period of one month from the date of receipt of a copy of this order and pass appropriate orders within a period of three months thereafter in accordance with law. Till appropriate orders are made in this regard, status-quo obtaining as on today be maintained by the parties.

48. With the above directions both the writ petitions are disposed of. No order as to costs.

KVR February 24, 2005

L.R. Copy to be marked.

One fair copy to the Honourable Sri Justice P.S.Narayana, for his lordship's kind perusal.

To

1. The Assistant Commissioner,

   Endowments Department, Government of

   Andhra Pradesh, Nalgonda.

2 The Single Trustee Cum Executive Officer,

   Machagiri, Sri Chennakeshava Swamy Temple
   Aroor Village, Veligonda Mandal,
   Nalgonda District.

3 The Secretary, Government of A.P.,

   Revenue Department,
   Secretariat, Hyderabad

4 The District Collector,
   Nalgonda District

5 The Sub-Collector
   Bhongir, Nalgonda District.

6 The Commissioner Endowment Department

   Government of A.P.
   Boggulakunta, Tilak Road,
   Hyderabad.

7 The Mandal Revenue Officer
   Veligonda Mandal, Nalgonda District

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   High Court of AP, Hyderabad (O.U.T.)